

**REMARKS**

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

**I. CLAIM STATUS AND AMENDMENTS**

Claims 1-5 were pending in this application when last examined and stand rejected.

Claim 1 is amended to specify that said skin collagen production promoter promotes skin collagen production when ingested or topically administered and improves skin wrinkling, skin sagging, skin dryness feeling and skin chapping when orally administered or topically applied to the skin. Support can be found in the disclosure, for example, at page 3, lines 5-24, page 6, lines 5-10, the Examples on pages 10-20, and page 21, lines 1-11

New claims 6-17 have been added.

Claims 6-10 and 14-17 further specify dosages, concentrations and properties of said milk-derived basic protein fraction and/or basic peptide fraction. Support can be found at page 4, lines 4-24, page 6, lines 5-10, page 9, line 5, and Test Examples 1-3 on pages 10-12. Claims 11-13 further specify the route of administration and the dosages of the compounds of claims 1 and 4-5. Support can be found in the disclosure, for example, at page 3, lines 5-24, page 6, lines 5-10, the Examples on pages 10-20, and page 21, lines 1-11. It is believed that the

amended and new claims should be considered and examined on the merits since they incorporate the claimed skin collagen promotion promoter already under examination.

Claims 2-3 are amended in a non-narrowing manner to make minor editorial revisions to better conform to U.S. claim form and practice.

Claims 1-17 are pending upon entry of this amendment.

No new matter has been added by the above claim amendments.

## **II. INFORMATION DISCLOSURE STATEMENT**

On page 2 of the Office Action, the Office indicated that certain references in the IDS of October 20, 2005 were not considered on the basis that legible copies were not provided to the Office.

Applicants respectfully disagree and submit that the references should have been officially considered by the Office. Copies of the references should have been forwarded to the USPTO by the International Search Authority pursuant to the trilateral agreement between the USPTO, EPO and JPO. Applicants also note that an English language International Search Report, that cites these references, was submitted with the October 20, 2005 IDS. Thus, the references should have been considered as they should be of record at the USPTO. Please review the USPTO file record again so that the references may be officially considered.

Nonetheless, to expedite prosecution, Applicants are resubmitting copies of certain of these references herewith to assist the Examiner. It should be noted that the English language International Search Report discusses the relevance of the non-translated Japanese language references, and thus, translations of such references are unnecessary in accordance with US practice. Further, it is noted that a Request for Corrected PTO-1449 was submitted November 7, 2008 with copies of certain of the non-patent references.

Thus, kindly consider all of the references in the IDS, and return an Examiner-initialed copy of PTO-1449 form indicating such.

### **III. ANTICIPATION REJECTIONS**

Claims 1-5 were separately rejected under 35 U.S.C. § 102(b) as anticipated by TAKADA (EP 1010430A1) and TAKADA (US 5,976,597) for the reasons on pages 2-6 of the Office Action.

These rejections are respectfully traversed.

It is believed that the rejections should fall, because the cited prior art references fail to disclose each and every element of the claims.

To start, it should be noted that amended claim 1 now specifies that said skin collagen production promoter promotes skin collagen production and improves skin wrinkling, skin

sagging, skin dryness feeling or skin chapping when orally administered or topically applied to the skin.

EP 1010430A1 and US 5,976,597 fail to disclose such a composition.

EP 1010430A1 relates to oral agents, such as a mouthwash, comprising a milk-derived basic protein, for treating periodontosis. US 5,976,597 relates to a milk basic protein composition that can be taken orally for the purpose of stimulating osteoblast proliferation and to reduce bone resorption.

However, neither reference mentions anything about the effect on the skin of such compositions. They fail to disclose the effect of promoting skin collagen production by ingesting the compositions. Nor do they mention anything about the effects of topically applying the composition to the skin.

For these reasons, it is believed that neither EP 1010430A1 nor US 5,976,597 discloses the compositions of claims 1-5 capable of promoting skin collagen production, let alone those capable of improving skin wrinkling, skin sagging, skin dryness feeling or skin chapping when topically applied to the skin or ingested. Further, they do not disclose the specific dosages and properties of new claims 6-10 and 14-17.

For the above reasons, it is clear that the cited references do not contemplate the methods of treating and routes

of administering of new claims 11-13. In this regard, it should be noted that EP 1010430A1 contemplates applying the composition to the teeth, not to the skin. Nor does it contemplate ingesting the composition for the purpose of exacting an effect on the skin. US 5,976,597 also does not contemplate application to skin or the effect on the skin of ingesting the composition,

For these reasons, it is believed that the cited prior art references fail each and every feature of the amended and new claims. Thus, the anticipation rejections are untenable and should be withdrawn.

#### **IV. CONCLUSION**

Having addressed all the outstanding issues, the amendment is believed to be fully responsive. In view of the above, it is respectfully submitted that the application is in condition for allowance and notice to that effect is hereby requested. If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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## Appendix

- Courtesy copies of IDS of October 20, 2005, the English language International Search Report and the references lined through by the Examiner in the PTO-1449 form returned with the IDS of October 20, 2005.